
HOUSE BILL 2404

State of Washington 60th Legislature 2007 Regular Session

By Representatives VanDeWege and Simpson

Read first time 04/18/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to prohibiting port districts from exercising
2 eminent domain powers; amending RCW 53.08.010, 53.08.020, 53.08.047,
3 53.20.050, 53.34.010, and 53.34.170; adding a new section to chapter
4 53.08 RCW; repealing RCW 53.25.010, 53.25.020, 53.25.030, 53.25.040,
5 53.25.050, 53.25.060, 53.25.070, 53.25.080, 53.25.090, 53.25.100,
6 53.25.110, 53.25.120, 53.25.130, 53.25.140, 53.25.150, 53.25.160,
7 53.25.170, 53.25.190, 53.25.200, 53.25.210, 53.25.900, and 53.25.910;
8 and declaring an emergency.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 53.08 RCW
11 to read as follows:

12 A port district is prohibited from exercising the power of eminent
13 domain for the acquisition of property or for any other purpose
14 authorized under the laws of this state. This section shall apply to
15 all port district activities initiated on or after January 1, 2007.

16 **Sec. 2.** RCW 53.08.010 and 1983 c 24 s 1 are each amended to read
17 as follows:

18 A port district may acquire by purchase, for cash or on deferred

1 payments for a period not exceeding twenty years, (~~or by condemnation,~~
2 ~~or both,~~) all lands, property, property rights, leases, or easements
3 necessary for its purposes (~~and may exercise the right of eminent~~
4 ~~domain in the acquirement or damaging of all such lands, property, and~~
5 ~~property rights,~~) and may levy and collect assessments upon property
6 for the payment of all damages and compensation in carrying out its
7 purposes, and such right shall be exercised in the same manner and by
8 the same procedure as provided for cities of the first class insofar as
9 consistent with this title, and in connection therewith the county
10 treasurer shall perform the duties of the treasurers of such cities.

11 **Sec. 3.** RCW 53.08.020 and 1963 c 147 s 3 are each amended to read
12 as follows:

13 A port district may construct, (~~condemn,~~) purchase, acquire, add
14 to, maintain, conduct, and operate sea walls, jetties, piers, wharves,
15 docks, boat landings, and other harbor improvements, warehouses,
16 storehouses, elevators, grain-bins, cold storage plants, terminal icing
17 plants, bunkers, oil tanks, ferries, canals, locks, tidal basins,
18 bridges, subways, tramways, cableways, conveyors, administration
19 buildings, fishing terminals, together with modern appliances and
20 buildings for the economical handling, packaging, storing, and
21 transporting of freight and handling of passenger traffic, rail and
22 motor vehicle transfer and terminal facilities, water transfer and
23 terminal facilities, air transfer and terminal facilities, and any
24 combination of such transfer and terminal facilities, commercial
25 transportation, transfer, handling, storage and terminal facilities,
26 and improvements relating to industrial and manufacturing activities
27 within the district, and in connection with the operation of the
28 facilities and improvements of the district, it may perform all
29 customary services including the handling, weighing, measuring and
30 reconditioning of all commodities received. A port district may also
31 construct, (~~condemn,~~) purchase, acquire, add to, and maintain
32 facilities for the freezing or processing of goods, agricultural
33 products, meats, or perishable commodities. A port district may also
34 construct, purchase, and operate belt line railways(~~, but shall not~~
35 ~~acquire the same by condemnation~~)).

1 **Sec. 4.** RCW 53.08.047 and 1972 ex.s. c 54 s 4 are each amended to
2 read as follows:

3 Except for the prohibition against the use of eminent domain under
4 section 1 of this act, neither this chapter nor anything herein
5 contained shall be construed as a restriction or limitation upon any
6 powers which a district might otherwise have under any laws of this
7 state, but shall be construed as cumulative.

8 **Sec. 5.** RCW 53.20.050 and 1985 c 469 s 52 are each amended to read
9 as follows:

10 Whenever a petition signed by one hundred freeholders in the
11 district to be therein described, shall be filed with the port
12 commission, asking that any portion of the general plan adopted be
13 ordered, and defining the boundaries of a local improvement district to
14 be assessed in whole or in part to pay the cost thereof, it shall be
15 the duty of the port commission to fix a date for hearing on the
16 petition, after which it may alter the boundaries of the proposed
17 district and prepare and adopt detail plans of any such local
18 improvement, declare the estimated cost thereof, what proportion of the
19 cost shall be borne by the proposed local improvement district, and
20 what proportion of the cost, if any, but in any event not to exceed
21 fifty percent, shall be borne by the entire port district. At any time
22 within two years thereafter, upon petition of the owners of a majority
23 of the lands in the proposed local improvement district, fixed by the
24 port commission, as shown in the office of the auditor of the county,
25 asking that the improvement be ordered, the port commission shall
26 forthwith by resolution order the improvement, provide the general
27 funds of the port district to be applied thereto, acquire all lands
28 necessary therefor, pay all damages caused thereby, (~~and commence in~~
29 ~~the name of the port district such eminent domain proceedings and~~
30 ~~supplemental assessment or reassessment proceedings to pay all eminent~~
31 ~~domain awards as may be necessary to entitle the port district to~~
32 ~~proceed with such work,~~) and shall thereafter proceed with the work,
33 and shall make and file with the county treasurer its roll levying
34 special assessments in the amount to be paid by special assessment
35 against the property situated within the local improvement district in
36 proportion to the special benefits to be derived by the property in the
37 local improvement district from the improvement. Before the approval

1 of the roll a notice shall be published once a week for two consecutive
2 weeks in one or more newspapers of general circulation in the local
3 improvement district, stating that the roll is on file and open to
4 inspection in the office of the clerk of the port commission, and
5 fixing a time not less than fifteen nor more than thirty days from the
6 date of the first publication of the notice within which protests must
7 be filed with the clerk of the port commission against any assessments
8 shown thereon, and fixing a time when a hearing shall be held by the
9 commission on the protests. After the hearing the port commission may
10 alter any and all assessments shown on the roll and may then by
11 resolution approve the same, but in the event of any assessment being
12 raised a new notice similar to the first notice shall be given, after
13 which final approval of the roll may be made by the port commission.
14 Any person feeling aggrieved by any such assessments shall perfect an
15 appeal to the superior court of the county within ten days after the
16 approval in the manner now provided by law for appeals from assessments
17 levied by cities of the first class in this state. Engineering and
18 office expenses in all cases shall be borne by the general district.

19 **Sec. 6.** RCW 53.34.010 and 1984 c 7 s 365 are each amended to read
20 as follows:

21 In addition to all other powers granted to port districts, any such
22 district may, with the consent of the department of transportation,
23 acquire by ~~((condemnation,))~~ purchase, lease, or gift, and may
24 construct, reconstruct, maintain, operate, furnish, equip, improve,
25 better, add to, extend, and lease to others in whole or in part and
26 sell in whole or in part any one or more of the following port
27 projects, within or without or partially within and partially without
28 the corporate limits of the district whenever the commission of the
29 district determines that any one or more of such projects are necessary
30 for or convenient to the movement of commercial freight and passenger
31 traffic a part of which traffic moves to, from, or through the
32 territory of the district:

33 (1) Toll bridges;

34 (2) Tunnels under or upon the beds of any river, stream, or other
35 body of water, or through mountain ranges.

36 In connection with the acquisition or construction of any one or
37 more of such projects the port districts may, with the consent of the

1 state department of transportation, further acquire or construct,
2 maintain, operate, or improve limited or unlimited access highway
3 approaches of such length as the commission of such district deems
4 advisable to provide means of interconnection of the facilities with
5 public highways and of ingress and egress to any such project,
6 including plazas and toll booths, and to construct and maintain under,
7 along, over, or across any such project telephone, telegraph, or
8 electric transmission wires and cables, fuel lines, gas transmission
9 lines or mains, water transmission lines or mains, and other mechanical
10 equipment not inconsistent with the appropriate use of the project, all
11 for the purpose of obtaining revenues for the payment of the cost of
12 the project.

13 **Sec. 7.** RCW 53.34.170 and 1959 c 236 s 17 are each amended to read
14 as follows:

15 In the acquisition, construction, reconstruction, improvement,
16 extension, or betterment of any project or projects authorized under
17 the provisions of this chapter any port district creating and
18 establishing any such project or projects may have and exercise all of
19 the powers heretofore or hereafter granted to port districts for
20 corporate purposes and, in addition thereto, may acquire by gift or
21 grant, lease, or purchase(~~(, or condemnation)~~) any public and private
22 property, franchises, and property rights, including state, county, and
23 school lands and property, and littoral and water rights whether or not
24 any such property is then devoted to public or quasi public proprietary
25 or governmental use(~~(: PROVIDED, That the court shall find that the~~
26 ~~proposed condemnation of any property already devoted to a public use~~
27 ~~is for a higher public use, and)~~). A port district may by appropriate
28 contracts with any city, county, or other political subdivision of the
29 state, with the state and any department of the government of the state
30 (hereinafter referred to collectively as public agencies), or with any
31 department, instrumentality or agency of the United States, acquire
32 title to or the use of existing roads, streets, parkways, avenues, or
33 highways or the closing of any roads, streets, parkways, avenues, or
34 highways as may be necessary or convenient to the acquisition,
35 construction, or operation of any such project or projects under such
36 terms and conditions as may be mutually agreed upon. All public

1 agencies are authorized to enter into contracts with port districts for
2 the aforesaid purposes.

3 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
4 repealed:

5 (1) RCW 53.25.010 (Marginal lands--Declaration of policies and
6 purposes) and 1955 c 73 s 1;

7 (2) RCW 53.25.020 (Marginal lands--Further declaration) and 1955 c
8 73 s 2;

9 (3) RCW 53.25.030 ("Marginal lands" defined) and 1955 c 73 s 3;

10 (4) RCW 53.25.040 (Industrial development districts authorized--
11 Boundaries--Deletion of land area) and 1989 c 167 s 1, 1985 c 469 s 53,
12 & 1955 c 73 s 4;

13 (5) RCW 53.25.050 (Tax title lands may be conveyed to district) and
14 1955 c 73 s 5;

15 (6) RCW 53.25.060 (Private lands may be conveyed to district--
16 Cancellation of taxes) and 1955 c 73 s 6;

17 (7) RCW 53.25.070 (Discharge of trust) and 1955 c 73 s 7;

18 (8) RCW 53.25.080 (When lands revert to county) and 1955 c 73 s 8;

19 (9) RCW 53.25.090 (Conditions precedent to making improvements) and
20 1955 c 73 s 9;

21 (10) RCW 53.25.100 (Powers as to industrial development districts)
22 and 1991 c 363 s 132 & 1955 c 73 s 10;

23 (11) RCW 53.25.110 (Sale authorized in industrial development
24 district) and 1955 c 73 s 11;

25 (12) RCW 53.25.120 (Notice of hearing on sale--Hearing--Plans and
26 specifications--Conditions--Devotion of property to public use) and
27 1985 c 469 s 54, 1963 c 138 s 1, & 1955 c 73 s 12;

28 (13) RCW 53.25.130 (Findings and determination--Record--Appeal) and
29 1955 c 73 s 13;

30 (14) RCW 53.25.140 (Action on determination--Sale by competitive
31 bid or negotiation) and 1984 c 195 s 1 & 1955 c 73 s 14;

32 (15) RCW 53.25.150 (Competitive bids--Conditions--Acceptance) and
33 1984 c 195 s 2 & 1955 c 73 s 15;

34 (16) RCW 53.25.160 (Devotion of property to intended use--Remedy--
35 Restraint on alienation) and 1955 c 73 s 16;

36 (17) RCW 53.25.170 (Covenant running with the land--Forfeiture) and
37 1955 c 73 s 17;

- 1 (18) RCW 53.25.190 (Eminent domain) and 1955 c 73 s 19;
2 (19) RCW 53.25.200 (Advances of general fund moneys or credit) and
3 1955 c 73 s 20;
4 (20) RCW 53.25.210 (Determination that land sought by eminent
5 domain is marginal) and 1955 c 73 s 21;
6 (21) RCW 53.25.900 (Repeal and saving) and 1955 c 73 s 22; and
7 (22) RCW 53.25.910 (Severability--1955 c 73) and 1955 c 73 s 23.

8 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 immediately.

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